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10/672,622	09/26/2003	Yoshiki Fujimura	0001494/2215USU	8062

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EXAMINER

HICKS, MICHAEL J

ART UNIT	PAPER NUMBER
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2165

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	04/27/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary

Application No.

10/672,622

Applicant(s)

FUJIMURA, YOSHIKI

Examiner

Michael J. Hicks

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 23 February 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-7 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☐ Claim(s) 1-7 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 26 September 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- ☐ Notice of Informal Patent Application
- ☐ Other: _____

DETAILED ACTION

1. Claims 1-7 Pending.

Continued Examination Under 37 CFR 1.114

2. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 2/23/2007 has been entered.

Response to Arguments

3. Applicant's arguments, see response, filed 2/23/2007, with respect to the rejection(s) of claim(s) 1-7 under USC 102 have been fully considered and are persuasive. Therefore, the rejection has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made in view of Carruthers et al. (U.S. Pre-Grant Publication Number 2002/0128904 and referred to hereinafter as Carruthers).

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

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(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

5. Claims 1-7 rejected under 35 U.S.C. 102(a) as being anticipated by Carruthers.

As per Claims 1 and 7, Carruthers discloses home page automatic update system comprising: a home page management unit reading out an HTML document from a home page database in response to a request from a user terminal, and transmitting the readout HTML document to the user terminal (i.e. *"A user of a client machine having an HTML-compatible browser (e.g., Netscape Navigator) can retrieve a Web page (namely, an HTML formatted document) of a Web site by specifying a link via the URL (e.g., www.yahoo.com/photography). Upon such specification, the client machine makes a transmission control protocol/Internet protocol (TCP/IP) request to the server identified in the link and receives the Web page in return."* The preceding text excerpt clearly indicates that a homepage management unit may retrieve an HTML document from a database contain HTML documents and deliver it to a the user terminal.) (Page 2, Paragraph 21); a patrol search unit extracting update data by executing in turn a reception process of a mail message stored in a mail server (i.e. *"The Inventory Manager constructs the master delivery plan on a periodic basis, e.g., once a day, based on the calculated goals of each of the active advertising campaigns. The plan specifies a prioritized master list of advertisements, which is sent to the On-Demand Scheduler 70 at each POP server 16. The prioritized content list identifies the order in which advertisements are to be displayed. The order is based preferably both upon priority and some weighting mechanism that indicates how many impressions are needed by each campaign...The On-Demand Scheduler 70, which resides at each ISP POP server 16 in the system, dynamically constructs an individual ordered list of advertisements to be delivered for each given user upon user login. Each individual list includes advertisements matched to the user and prioritized according to the master list received from the Delivery Manager 54."* The preceding text excerpt clearly indicates that a mail message containing schedule relevant data is received at a mail server (e.g. a POP

server which supports POP mail messages.) (Page 3, Paragraphs 34, 37), an extraction process of update data of an HTML document stored in the home page database (i.e. "When a user or subscriber logs on, the On-Demand Scheduler 70 calls the Local Matcher 72 to identify the advertisements the subscriber is eligible for. This is done by matching the profile of the user (preferably through an anonymous user ID) to the profiles of advertisements in the prioritized master list generated by the Delivery Manager 54. The result is a list of advertisements for which the subscriber is eligible to receive. The On-Demand Scheduler 70 then preferably retrieves any state variables for the advertisements. The variables can indicate, e.g., if a subscriber has previously been sent an advertisement, when (date and time) that subscriber was last sent the advertisement, and how many total times the subscriber has been sent the advertisement." The preceding text excerpt clearly indicates that update data (e.g. data that is used to determine the next advertisement/HTML document to be sent) is extracted.) (Page 3, Paragraph 38), a file search process in a management terminal (i.e. "When a user or subscriber logs on, the On-Demand Scheduler 70 calls the Local Matcher 72 to identify the advertisements the subscriber is eligible for. This is done by matching the profile of the user (preferably through an anonymous user ID) to the profiles of advertisements in the prioritized master list generated by the Delivery Manager 54. The result is a list of advertisements for which the subscriber is eligible to receive. The On-Demand Scheduler 70 then preferably retrieves any state variables for the advertisements. The variables can indicate, e.g., if a subscriber has previously been sent an advertisement, when (date and time) that subscriber was last sent the advertisement, and how many total times the subscriber has been sent the advertisement." The preceding text excerpt clearly indicates that the management terminal is able to search for advertisements which a user is eligible for.) (Page 3, Paragraph 38), and a search process of schedule data in a storage device on the basis of a patrol time (i.e. "After the On-Demand Scheduler 70 has the list of eligible advertisements and the state variables for those advertisements, it preferably examines any constraints for each advertisement. Constraints can include, e.g., the time required between successive impressions of a given advertisement, maximum number of impressions allowed, etc. If the constraints do not rule out the

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advertisement, it is placed in the subscribers' individual list of advertisements. The individual list is prioritized in accordance with the prioritized master list generated by the Delivery Manager 54." The preceding text excerpt clearly indicates that the search process takes into account a patrol time (e.g. the amount of time necessary between patrols.) (Page 3, Paragraph 39), a patrol order (i.e. *"The On-Demand Scheduler 70 then preferably retrieves any state variables for the advertisements. The variables can indicate, e.g., if a subscriber has previously been sent an advertisement, when (date and time) that subscriber was last sent the advertisement, and how many total times the subscriber has been sent the advertisement."* The preceding text excerpt clearly indicates that the search process takes into account a patrol order (e.g. the order of advertisements will be prioritized based on the advertisements the user has recently received.) (Page 3, Paragraph 38), a number of times patrol is to be carried out (i.e. *"The prioritized content list identifies the order in which advertisements are to be displayed. The order is based preferably both upon priority and some weighting mechanism that indicates how many impressions are needed by each campaign... After the On-Demand Scheduler 70 has the list of eligible advertisements and the state variables for those advertisements, it preferably examines any constraints for each advertisement. Constraints can include, e.g., the time required between successive impressions of a given advertisement, maximum number of impressions allowed, etc. If the constraints do not rule out the advertisement, it is placed in the subscribers' individual list of advertisements. The individual list is prioritized in accordance with the prioritized master list generated by the Delivery Manager 54."* The preceding text excerpt clearly indicates that the search process takes into account a number of times a patrol is to be carried out. (e.g. the maximum number of impressions allowed.) (Page 3, Paragraphs 34, 39), and a setting regarding whether or not to cause patrol to be carried out (i.e. *"The On-Demand Scheduler 70, which resides at each ISP POP server 16 in the system, dynamically constructs an individual ordered list of advertisements to be delivered for each given user upon user login. Each individual list includes advertisements matched to the user and prioritized according to the master list received from the Delivery Manager 54."* The preceding text excerpt clearly indicates that the search takes into account a setting which indicates whether a patrol for a certain campaign should be carried out

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for a given user.) (Page 3, Paragraph 37), which determine the order of priority for accessing the mail server, the home page database, the management terminal, and the storage device, said order of priority being determined in advance (i.e. *"The Inventory Manager constructs the master delivery plan on a periodic basis, e.g., once a day, based on the calculated goals of each of the active advertising campaigns...Advertisements in the individual list are retrieved by the CDS server 74 from the remote database 76 and sent to the subscriber in the specified order. The On-Demand Scheduler 70 preferably provides the Delivery Manager 54 with data on the impressions delivered to each user so that the Delivery Manager 54 can reprioritize its list of advertisements as needed."* The preceding text excerpt clearly indicates that the priority order is determined on a periodic basis (e.g. in advance) and that the priority order is used to determine an order for accessing the homepage database, management terminal, storage device, and mail server.) (Page 3, Paragraph 34; Page 4, Paragraph 41); and an update data generation unit generating update HTML data on the basis of the extracted update data (i.e. *"After the On-Demand Scheduler 70 has the list of eligible advertisements and the state variables for those advertisements, it preferably examines any constraints for each advertisement. Constraints can include, e.g., the time required between successive impressions of a given advertisement, maximum number of impressions allowed, etc. If the constraints do not rule out the advertisement, it is placed in the subscribers' individual list of advertisements. The individual list is prioritized in accordance with the prioritized master list generated by the Delivery Manager 54."* The preceding text excerpt clearly indicates that update HTML data is generated on the basis of the extracted update data.) (Page 3, Paragraph 39), wherein the management terminal is allowed to set the patrol time, patrol order, number of times patrol is to be carried out, and setting regarding whether or not to cause the patrol to be carried out, which determine the order of priority (i.e. *"The Inventory Manager 51 generates a master delivery plan expected to fulfill delivery contracts with advertisers. It uses delivery feedback information received from the On-Demand Scheduler 70 of each POP server 16 in the system to adaptively modify the master plan on a periodic*

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basis. For each accepted advertising campaign, the Inventory Manager 51 calculates a daily goal number of impressions to meet contract requirements. Advertisers typically desire to distribute the total number of desired impressions equally over each day of the campaign. (Alternatively, other distribution patterns can be used as desired.) The goals are periodically updated, e.g., each day, by comparing the number actually delivered to the desired total number of impressions." The preceding text excerpt clearly indicates that the management terminal may update all the campaign variables on a periodic basis. See also Paragraphs 27-30) (Page 3, Paragraphs 32-33), and the home page management unit transmits an HTML document which contains the update HTML data generated by the update data generation unit to the user terminal (i.e. "Advertisements in the individual list are retrieved by the CDS server 74 from the remote database 76 and sent to the subscriber in the specified order. The On-Demand Scheduler 70 preferably provides the Delivery Manager 54 with data on the impressions delivered to each user so that the Delivery Manager 54 can reprioritize its list of advertisements as needed." The preceding text excerpt clearly indicates that the updated HTML documents (e.g. new banner advertisements) are sent to the users.) (Page 4, Paragraph 41).

As per Claim 2, Carruthers discloses the update HTML data contains banner advertisement data (i.e. "The content is displayed on user computer display devices, and can comprise advertising, e.g., in the form of banner advertisements or pop-up advertisements." The preceding text excerpt clearly indicates that the update HTML data may be banner advertisements.) (Page 1, Paragraph 15).

As per Claim 3, Carruthers discloses the reception process of a mail message includes a process for sending a mail transmission request to the mail server, and a reception process of a mail message from the mail server (i.e. "The Inventory Manager

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constructs the master delivery plan on a periodic basis, e.g., once a day, based on the calculated goals of each of the active advertising campaigns. The plan specifies a prioritized master list of advertisements, which is sent to the On-Demand Scheduler 70 at each POP server 16. The prioritized content list identifies the order in which advertisements are to be displayed. The order is based preferably both upon priority and some weighting mechanism that indicates how many impressions are needed by each campaign...The On-Demand Scheduler 70, which resides at each ISP POP server 16 in the system, dynamically constructs an individual ordered list of advertisements to be delivered for each given user upon user login. Each individual list includes advertisements matched to the user and prioritized according to the master list received from the Delivery Manager 54." The preceding text excerpt clearly indicates that mail messages are sent to and received at the mail server (e.g. the POP server, which supports POP mail).) (Page 3, Paragraphs 34, 37).

As per Claim 4, Carruthers discloses the extraction process of update data of an HTML document stored in the home page database includes a process for reading out a latest first HTML document and a second HTML document having an update time a predetermined period of time before the current time from the home page database (i.e. *"When a user or subscriber logs on, the On-Demand Scheduler 70 calls the Local Matcher 72 to identify the advertisements the subscriber is eligible for. This is done by matching the profile of the user (preferably through an anonymous user ID) to the profiles of advertisements in the prioritized master list generated by the Delivery Manager 54. The result is a list of advertisements for which the subscriber is eligible to receive. The On-Demand Scheduler 70 then preferably retrieves any state variables for the advertisements. The variables can indicate, e.g., if a subscriber has previously been sent an advertisement, when (date and time) that subscriber was last sent the advertisement, and how many total times the subscriber has been sent the advertisement. After the On-Demand Scheduler 70 has the list of eligible advertisements and the state variables for those advertisements, it preferably examines any constraints for each advertisement. Constraints can include, e.g., the time required between successive*

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impressions of a given advertisement, maximum number of impressions allowed, etc. If the constraints do not rule out the advertisement, it is placed in the subscribers' individual list of advertisements. The individual list is prioritized in accordance with the prioritized master list generated by the Delivery Manager 54." The preceding text excerpt clearly indicates that during the extraction of the update data, HTML documents (e.g. advertisements) are read. Note that the HTML documents have associated information and it is known when they were last read, and how long they are to be displayed. As the current system time would also be known, the update time is determined through these variables.) (Page 3, Paragraph 38-39), and a process for extracting a mismatched data part of the first and second HTML documents (i.e. *"When a user or subscriber logs on, the On-Demand Scheduler 70 calls the Local Matcher 72 to identify the advertisements the subscriber is eligible for. This is done by matching the profile of the user (preferably through an anonymous user ID) to the profiles of advertisements in the prioritized master list generated by the Delivery Manager 54. The result is a list of advertisements for which the subscriber is eligible to receive. The On-Demand Scheduler 70 then preferably retrieves any state variables for the advertisements. The variables can indicate, e.g., if a subscriber has previously been sent an advertisement, when (date and time) that subscriber was last sent the advertisement, and how many total times the subscriber has been sent the advertisement. After the On-Demand Scheduler 70 has the list of eligible advertisements and the state variables for those advertisements, it preferably examines any constraints for each advertisement. Constraints can include, e.g., the time required between successive impressions of a given advertisement, maximum number of impressions allowed, etc. If the constraints do not rule out the advertisement, it is placed in the subscribers' individual list of advertisements. The individual list is prioritized in accordance with the prioritized master list generated by the Delivery Manager 54.*" The preceding text excerpt clearly indicates that the mismatched part of the data between the two ads (e.g. the ads themselves) is extracted and is sent to the user.) (Page 3, Paragraph 38-39).

As per Claim 5, Carruthers discloses the file search process in the management terminal includes a process for sending a file search request to the management terminal (i.e. *"When a user or subscriber logs on, the On-Demand Scheduler 70 calls the Local Matcher 72 to identify the advertisements the subscriber is eligible for. This is done by matching the profile of the user (preferably through an anonymous user ID) to the profiles of advertisements in the prioritized master list generated by the Delivery Manager 54. The result is a list of advertisements for which the subscriber is eligible to receive. The On-Demand Scheduler 70 then preferably retrieves any state variables for the advertisements. The variables can indicate, e.g., if a subscriber has previously been sent an advertisement, when (date and time) that subscriber was last sent the advertisement, and how many total times the subscriber has been sent the advertisement."* The preceding text excerpt clearly indicates that the management terminal is able to search for advertisements which a user is eligible for. Note that the file search request is automatically generated and sent to the management terminal upon user login.) (Page 3, Paragraph 38), and a reception process of an update file from the management terminal (i.e. *"After the On-Demand Scheduler 70 has the list of eligible advertisements and the state variables for those advertisements, it preferably examines any constraints for each advertisement. Constraints can include, e.g., the time required between successive impressions of a given advertisement, maximum number of impressions allowed, etc. If the constraints do not rule out the advertisement, it is placed in the subscribers' individual list of advertisements. The individual list is prioritized in accordance with the prioritized master list generated by the Delivery Manager 54."* The preceding text excerpt clearly indicates that the update file is generated and received by the management terminal.) (Page 3, Paragraph 39).

As per Claim 6, Carruthers discloses the storage device stores schedule data set with a predetermined cyclic period (i.e. *"The prioritized content list identifies the order in which advertisements are to be displayed. The order is based preferably both upon priority and some weighting*

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mechanism that indicates how many impressions are needed by each campaign." The preceding text excerpt clearly indicates that under equal weighting, the schedule data, which is sorted, will be a cyclic schedule.) (Page 3, Paragraph 34), and update data associated with the schedule data ((i.e. "When a user or subscriber logs on, the On-Demand Scheduler 70 calls the Local Matcher 72 to identify the advertisements the subscriber is eligible for. This is done by matching the profile of the user (preferably through an anonymous user ID) to the profiles of advertisements in the prioritized master list generated by the Delivery Manager 54. The result is a list of advertisements for which the subscriber is eligible to receive. The On-Demand Scheduler 70 then preferably retrieves any state variables for the advertisements. The variables can indicate, e.g., if a subscriber has previously been sent an advertisement, when (date and time) that subscriber was last sent the advertisement, and how many total times the subscriber has been sent the advertisement." The preceding text excerpt clearly indicates that the system stores update data which is associated with the schedule data.) (Page 3, Paragraph 38), and the search process of schedule data in the storage device includes a search process of update data associated with a schedule corresponding to the current time (i.e. "When a user or subscriber logs on, the On-Demand Scheduler 70 calls the Local Matcher 72 to identify the advertisements the subscriber is eligible for. This is done by matching the profile of the user (preferably through an anonymous user ID) to the profiles of advertisements in the prioritized master list generated by the Delivery Manager 54. The result is a list of advertisements for which the subscriber is eligible to receive. The On-Demand Scheduler 70 then preferably retrieves any state variables for the advertisements. The variables can indicate, e.g., if a subscriber has previously been sent an advertisement, when (date and time) that subscriber was last sent the advertisement, and how many total times the subscriber has been sent the advertisement." The preceding text excerpt clearly indicates that the update data is searched during the search process and that the search process takes into account the timing aspects of the update data in view of the current time.) (Page 3, Paragraph 38).


Points of Contact

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael J. Hicks whose telephone number is (571) 272-2670. The examiner can normally be reached on Monday - Friday 10:00a - 7:00p.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jeffrey Gaffin can be reached on (571) 272-4146. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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